

Message Text

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TO AMEMBASSY BELGRADE

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E.O. 11652: N/A

TAGS: BDIS, YO

SUBJECT: US TRADE COMPLAINT AGAINST YUGOMETAL

1. STEPHEN SHULMAN OF FIRM CADWALADER, WICKERSHAM AND TAFT, REPRESENTING ASSOCIATED METALS AND MINERALS OF NEW YORK, HAS PROVIDED DEPARTMENT WITH FOLLOWING SUMMARY OF COMPLAINT AGAINST YUGOMETAL. ADDITIONAL DETAILS FOLLOW BY POUCH.

2. METALL UND ROHSTOFF (M & R) IS A SWISS SUBSIDIARY OF ASSOCIATED METALS & MINERALS CORPORATION (ASSOCIATED) A NEW YORK CORPORATION. ASSOCIATED IS THE OWNER OF ALL OF THE COMMON SHARES OF M & R. THE PREFERRED SHARES OF M & R ARE OWNED BY THE STOCKHOLDERS OF ASSOCIATED. FRANZ LISSAUER, A UNITED STATES CITIZEN, IS PRESIDENT OF AND A SUBSTANTIAL STOCKHOLDER IN ASSOCIATED AND ALSO A SUBSTANTIAL PREFERRED STOCKHOLDER IN M & R. IN 1972, M & R ENTERED INTO A CONTRACT WITH FERROCHIMETAL, AN ITALIAN SUBSIDIARY OF YUGOMETAL, A YUGOSLAV CORPORATION. UNDER THE CONTRACT, YUGOMETAL WAS TO SUPPLY M & R WITH 50,000 TONS OF PIG IRON AT \$53.25 PER TON DURING THE FIRST SIX MONTHS OF 1973, AND WITH AN ADDITIONAL 50,000 TONS AT A PRICE TO BE DETERMINED BY MARCH 1, 1973, DURING THE LAST SIX MONTHS OF 1973. A TOTAL OF 33,555 TONS WAS DELIVERED IN 1973 AT THE \$53.25 PER TON PRICE. THE BALANCE OF 16,445 HAS NEVER BEEN

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DELIVERED. AFTER A NUMBER OF EFFORTS TO MODIFY THE CONTRACT

IN ORDER TO ENCOURAGE YUGOMETAL TO PERFORM, AN AGREEMENT

AS FINALLY REACHED ON FEBRUARY 14, 1974 BY FRANZ LISSAUER ON BEHALF OF M & R AND MR. KOVACIC, A DIRECTOR OF YUGOMETAL, ON BEHALF OF YUGOMENTAL AND FERROCHEMITAL. THAT AGREEMENT SPECIFIES A NINE-MONTH DELIVERY SCHEDULE FROM MARCH THROUGH NOVEMBER, 1974, FOR A TOTAL OF 46,445 TONS OF PIG IRON, INCLUDING THE UNDELIVERED BALANCE OF 16,445 TONS, AT THREE DIFFERENT PRICES AVERAGING \$92.39 PER TON. NO PIG IRON WHATSOEVER WAS DELIVERED IN 1974. YUGOMETAL HAS REFUSED TO PERFORM ITS AGREEMENT. EFFORTS IN BELGRADE LAST OCTOBER BY MR. LISSAUER TO REACH A FURTHER COMPROMISE HAVE BEEN UNAVAILING. YUGOMETAL HAS FLATLY STATED THAT THE MARKET PRICE HAS BECOME FAR HIGHER THAN THE CONTRACT PRICE, THAT IT CAN SELL ITS PIG IRON AT THE MARKET PRICE ELSEWHERE, AND THAT IT PROPOSES TO DISREGARD ITS CONTRACTUAL OBLIGATION.

3. EMBASSY IS REQUESTED TO RAISE THIS PROBLEM WITH YUGO-SLAV GOVERNMENT AUTHORITIES AND WITH YUGOMETAL, AS APPROPRIATE. EMBASSY SHOULD INDICATE THAT ASSOCIATED CONTINUES TO BE WILLING AND READY TO DISCUSS IMPLEMENTATION OF FEBRUARY 14, 1974 AGREEMENT AND TO NEGOTIATE SOLUTION ACCEPTABLE TO BOTH SIDES. HOWEVER, YUGOMETAL'S APPARENT UNWILLINGNESS TO CARRY OUT FEBRUARY AGREEMENT (LET ALONE 1972 CONTRACT) OR TO NEGOTIATE COMPROMISE SOLUTION HAS PLACED ASSOCIATED IN DIFFICULT POSITION IN WHICH IT HAS SOUGHT USG ASSISTANCE. EMBASSY SHOULD FIND OUT WHETHER YUGOMETAL WOULD BE WILLING TO RECEIVE REPRESENTATIVE FROM ASSOCIATED FOR PURPOSE OF NEGOTIATING COMPROMISE OF THIS ISSUE AND ADVISE DEPARTMENT.

4. FYI. ASSOCIATED BUYS AND SELLS PIG-IRON ABROAD WITHOUT PIG-IRON, IN MOST CASES, ENTERING US. CONTRACTS DO NOT INCLUDE ARBITRATION PROVISIONS. ASSOCIATED IS CONSIDERING POSSIBILITY OF LITIGATION IN SWITZERLAND BUT WOULD PREFER ARRIVING AT NEW AGREEMENT WITH YUGOMETAL. ASSOCIATED IS NOT AWARE OF DIFFICULTIES WHICH ENGLEHARD, A COMPETITOR, HAS HAD WITH YUGOMETAL (BELGRADE 5394). END FYI. KISSINGER

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